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MONTANA LEGISLATIVE HISTORY

Chapter 650 19 91

Bill H 152 S _____ Original bill & history ✓ C

H. Committee on Labor & Emp Rel.		S. Committee on Labor & Emp Rel	
Hearing Date(s) 1-17	✓ C	Hearing Date(s) 2-14	✓ C
1-29	✓ C	_____	___ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out _____	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 152

INTRODUCED BY Hansen, Dave Brown, Driscoll, Harper, Gervais, Swift, Davis, Daily, Tashbrook, Ellison, Lutey, Menahan, McCoy

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE STATE MINIMUM WAGE LAW TO REQUIRE THAT THE STATE MINIMUM WAGE BE SET IN ACCORDANCE WITH FEDERAL LAW; TO REPEAL THE NEW HIRE WAGE STATUTE; AMENDING SECTION 39-3-409, MCA; REPEALING SECTION 39-3-410, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-409, MCA, is amended to read:

"**39-3-409. Adoption of minimum wage rates.** The commissioner shall adopt rules to establish a minimum wage that must be the same minimum hourly wage rate as provided under the federal Fair Labor Standards Act (29 U.S.C. 206)~~, but not to exceed $4 an hour~~."

NEW SECTION. **Section 2.** Repealer. Section 39-3-410, MCA, is repealed.

NEW SECTION. **Section 3.** Effective date. [This act] is effective July 1, 1991.

-End-

INTRODUCED BILL
HB 152

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0152, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
A bill to revise the state minimum wage law to require that the state minimum wage be set in accordance with federal law, eliminating the ceiling of $4.00 per hour.

ASSUMPTIONS:
1. The minimum hourly wage rate established under the federal Fair labor Standards Act will increase from $4.00 to $4.25 per hour effective April 1, 1991.
2. No class in the state pay matrix would be affected by the increase in the minimum wage.
3. No change would occur in the scope of current wage compliance activities.
4. The state university system would increase wage levels for work-study programs consistent with the federal minimum wage irrespective of the state minimum wage.
5. Most state employers are either subject to federal labor standards or would voluntarily offer the federal minimum wage in order to remain competitive in labor markets.

FISCAL IMPACT:

Expenditures:

No effect on administrative costs. Impact on means-tested benefit payments can not be determined but is expected to be negligible.

Revenues:

Can not be determined but is expected to be negligible.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Can not be determined but is expected to be negligible.

TECHNICAL NOTE:

Confusion on implementation of this legislation could be somewhat minimized by making it effective upon passage because the federal wage rate schedule changes April 15, 1991, and waiting until July 1, 1991 would mean an interlude of "mixed" rates and possible confusion.

1-16-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

1/18/91
DAN HARRINGTON, PRIMARY SPONSOR DATE

4/12	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	95	0
4/13	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	96	0
	SENATE		
3/20	FREE CONFERENCE COMMITTEE APPOINTED		
4/11	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
5/03	SIGNED BY SPEAKER		
5/03	SIGNED BY PRESIDENT		
5/03	TRANSMITTED TO GOVERNOR		
5/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 778	EFFECTIVE DATE: 5/17/91	

HB 152 INTRODUCED BY HARRINGTON, ET AL.

REVISE STATE MINIMUM WAGE LAW TO CONFORM WITH FEDERAL LAW

1/11	INTRODUCED		
1/11	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/12	FIRST READING		
1/12	FISCAL NOTE REQUESTED		
1/16	FISCAL NOTE RECEIVED		
1/17	HEARING		
1/18	FISCAL NOTE PRINTED		
1/30	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/01	2ND READING PASSED	85	15
2/04	3RD READING PASSED	80	18
	TRANSMITTED TO SENATE		
2/05	FIRST READING		
2/05	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/14	HEARING		
4/01	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED	42	5
4/05	3RD READING CONCURRED	47	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	94	4
4/10	3RD READING AMENDMENTS CONCURRED	95	3
4/15	SIGNED BY SPEAKER		
4/16	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/20	RETURNED TO HOUSE WITH GOVERNOR'S AMENDMENTS		
4/22	2ND READING GOVERNOR'S AMENDMENTS NOT CONCURRED	57	35
	TRANSMITTED TO SENATE		
4/23	2ND READING GOVERNOR'S AMENDMENTS NOT CONCURRED	27	20
	RETURNED TO HOUSE		
4/24	TRANSMITTED TO GOVERNOR FOR RECONSIDERATION		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 650	EFFECTIVE DATE: 4/26/91	

HB 153 INTRODUCED BY REAM, ET AL.

CONFORM FILING DATES FOR WORKERS' COMPENSATION PAYROLL TAX TO INCOME TAX WITHHOLDING

BY REQUEST OF DEPARTMENT OF REVENUE

CHAIRMAN--CAROLYN SQUIRES
NORMAL SCHEDULE==> SITE: ROOM 312-1 DAYS: M,W,F TIME: 3:00 P.M.
SECRETARY-JENNIFER THOMPSON

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0141	1/10	1/24		PASS AS AMENDED	LABOR & EMPLOYMENT	2/06
HARRINGTON, DAN			PROVIDE UNEMPLOYMENT INSURANCE BENEFITS NONPROFESSIONAL SCHOOL EMPLOYEES			
HB0141	2/08			PASS AS AMENDED		2/18
HARRINGTON, DAN			PROVIDE UNEMPLOYMENT INSURANCE BENEFITS NONPROFESSIONAL SCHOOL EMPLOYEES			
HB0152	1/11	1/17		PASS AS AMENDED		1/30
HARRINGTON, DAN			REVISE STATE MINIMUM WAGE LAW TO CONFORM WITH FEDERAL LAW			
HB0187	1/15	1/29		PASS AS AMENDED		2/06
DRISCOLL, JERRY			REVISE WORKERS' COMPENSATION COMPUTATION FOR CONSTRUCTION INDUSTRY			
HB0204	1/16	1/29		DO PASS		1/30
RICE, SHEILA			REVISE OVERTIME COMPENSATION PERIODS IN CONSTRUCTION INDUSTRY			
HB0232	1/17	1/29		PASS AS AMENDED		2/06
CLARK, ROBERT			HIGHWAY PATROL DISCIPLINARY APPEAL THROUGH COLLECTIVE BARGAINING			
HB0251	1/17	1/31		DO PASS	APPROPRIATIONS	2/01
DRISCOLL, JERRY			EXTENDING LIFE OF WORKERS' COMPENSATION JOINT SELECT COMMITTEE			
HB0256	1/18	1/31		DO PASS		2/01
DRISCOLL, JERRY			REVISE CRITERIA USED TO DETERMINE ELIGIBILITY AND PAYMENT OF UI BENEFITS			
HB0271	1/19	2/14		PASS AS AMENDED		2/15
DRISCOLL, JERRY			ALLOW PSC TO REQUIRE REAR-END TELEMETRY SYSTEM ON CERTAIN RAILROAD TRAINS			
HB0280	1/19	1/31		PASS AS AMENDED		2/01
THOMAS, FRED			DENY TEMPORARY TOTAL DISABILITY BENEFITS UPON RELEASE TO RETURN TO WORK			
HB0305	1/21	2/05		PASS AS AMENDED		2/13
RICE, JIM			ALLOW DEPT OF LABOR TO CONDUCT HEARINGS BY TELEPHONE IN CERTAIN CASES			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIR CAROLYN SQUIRES**, on January 17, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chair (D)
Gary Beck (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Mark O'Keefe (D)
Bob Pavlovich (D)
Jim Southworth (D)
Fred Thomas (R)
Dave Wanzenried (D)
Tim Whalen (D)

Members Absent:

Royal Johnson (R)
Thomas Lee (R)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Chair Squires combined the hearing on HB 21 and HB 152 since they both pertain to minimum wage. Both representatives sponsoring the bills will give opening and closing statements, and questions can be directed to either representative.

HEARING ON HB 21 and HB 152

Presentation and Opening Statement by Sponsor:

REP. FRED THOMAS, House District 62, Stevensville, proposed HB 21. This bill removes the $4.00 cap in the State Minimum Wage Law and raises it to $4.25 effective April 1, 1991. This bill

changes the only wage rate of the total minimum wage law. With any raise in the minimum wage there is a threatened loss of jobs. In this case it is best to conform to the federal law as much as possible. Last session the correct compromise was reached in the bill that was passed. There was a phase-in for younger individuals entering the job market at $4.00; this bill continues the compromise reached last session and completes the work. There will be an amendment drafted to set a lower drop threshold for the State Minimum Wage to $250,000 of the business' receipts and sales, and there would be a $4.00 rate on that level and under.

Presentation and Opening Statement by Sponsor:

REP. DAN HARRINGTON, House District 68, Butte, proposed HB 152 which differs from HB 21. HB 152 affects employees who work for businesses grossing under $500,000. Otherwise, employees would be locked in at $4.00. The increase in the minimum wage that occurred last April was the first increase in over 10 years. The cost of living is very high. When minimum wage is discussed, it's not just students but bread winners and families. This bill does one other thing; it has amended doing away with the repeal in 39-3-410 MCA. He quoted, "in lieu of minimum wage provided 39-3-404(1), the employer may pay the employee a wage of $3.35/hour if employee has been previously employed by the employer. (2) An employer may pay an employee the minimum wage authorized in the subsection (1) for a period not to exceed 120 calendar days beginning from the date the employee is hired." That has been struck. A training wage is not necessary under the minimum wage laws in Montana. The result of this bill last session was all employees in Montana went to Federal Minimum Wage, except these people under $500,000. This bill will take care of these people who are having problems. If a training period is needed, the employee should receive more than minimum wage for the type of job. This bill brings the minimum wage to the federal level of $4.25, and it also strikes the number of days as far as a training period is concerned.

Proponents' Testimony:

James Tutwiler, Montana Chamber of Commerce, stated support for HB 21. **EXHIBIT 1 & 2.** In addition, the exact number of small businesses with gross sales of $250,000 or less in the state is not known. Research by Paul Polson, University of Montana, Bureau of Economic Research and Development, states about 6,000 to 8,000 businesses are in that category, based on the fact there are about 30,000 businesses in Montana. About 15,000 businesses employ one to four employees, and half of that would be in this category. Minnesota, Ohio, and Oklahoma employ a two-step tier in their minimum wage.

Laurie Shadoan, Bozeman Chamber of Commerce and owner of two restaurants and a bar, proposed two amendments: 1. Adopt the entire Federal Labor Standards Act, so there would be no

discrepancy between the state and the federal. That act would include the tip credit. She recommended a level of $3.80 per hour so the wage could not be dropped below that for tipped employees. The tipped employees of her two restaurants receive an average hourly of $7.92 including wages and tips. Those are tips reported to the federal government. The average kitchen wage is $5.76 per hour. The inequity between the kitchen and the floor staff causes major problems in hiring and retaining kitchen employees. Since 1987 tipped employees have received a 90 percent wage increase because of the repeal of the tip credit. The proposed wage increase would add another 12 percent increase to this. The difference between federal government mandates that 8 percent of the employers gross business is taxable to the floor personnel. That figure is being increased in the Federal Government up to 10 percent. 2. Adoption of the previous amendment in HB 21 on the $250,000 cap.

Leon Stalkup, Montana Restaurant Association, stated his support for HB 21 and HB 152. He said many small and usually rural businesses in Montana would have a much better chance of surviving if there were a two-tier system. He recommends the minimum wage be $4.25, with the exception of businesses grossing under $250,000 annually be $4.00 per hour. The federal increase takes place on April 1st, and this bill has its increase at a different date. They should have the same effective dates. The effective minimum wage of tipped employees in 1987 increased by 40 percent; in 1990 they increased 13.5 percent and 1991 will increase 11.8 percent. Over that total period of time, it has been a substantial increase for tipped employees. He proposed that the entire Fair Labor Standards Act 29 USC 206 be included in the state statute. The training wage has been used very infrequently in the restaurant business, and there is no opposition to it being eliminated.

Stuart Doggett, representing Montana Innkeepers Association, stated his support for both bills per the amendment that Rep. Thomas discussed for the $250,000 limit.

Nancy O'Neil, Bozeman restaurant owner, stated her support for HB 21 as long as it also adopted the federal statute eliminating the tipped employees. She said that the floor people who work in her restaurant told her that they won't work unless they earn $10.00 per hour. They are not affected by not being included in the minimum wage.

Mike Micone, Commissioner, Department of Labor and Industry, stated his support for the removal of the cap on the minimum wage that is proposed in HB 21 and HB 152. There are four minimum wages that are being enforced. If the amendment is accepted on HB 21, there will be five rates to monitor. Whichever bill is passed, the effective date should be April 15th to conform with the change with the federal minimum wage.

Don Judge, Executive Secretary, AFL-CIO, stated his support for

HB 21 and HB 152. **EXHIBIT 3.** In addition, he said his preference was HB 152. He urged committee members to ignore pleas to reinstate the tip credit.

Eddye McClure, Legislative Staff, stated that the effective date was her error. She has already drafted an amendment to make the passage and approval so that the commissioner can adopt the rules whenever this is signed by the Governor.

Bob Heiser, United Foods and Commercial Workers, stated his support for HB 21 and HB 152. He prefers HB 152, but if he can't have that one, he will take HB 21.

Phil Campbell, representing Montana Education Association, stated that he also represents non-teaching personnel in the school districts. Many of those jobs are minimum wage jobs which are held mostly by women. Therefore, either of the bills should be adopted; both bills are supported.

Opponents' Testimony:

Riley Johnson, National Federation of Independent Business, urged do not pass for both bills. **EXHIBIT 4**

Dave Simkins, owner Leslie's Hallmark, stated his opposition to HB 152. The training wage should be an option to bring young people, high-school age students, into business to find out whether they can be productive and then give them a raise after the 120 days. Many people don't have the experience in the business area to start them at minimum wage.

Charles Brooks, Montana Retail Association, opposes HB 152 by written testimony presented by Dave Simkins. **EXHIBIT 5**

Kathy Kirsch, owner Boulder Dairy Queen, stated her opposition to both bills. She has eight employees that all work part time. One or two are paid over minimum wage. None of them are living on what she pays them; they are all supplementing their income. The high school kids are being trained and won't be working at a Dairy Queen for the rest of their lives. If the minimum wage is raised to $4.25 per hour she won't go out of business, but the price of hamburgers will go up. The number of people she employs will go down. When the minimum wage was raised before, two people were laid off. If it is raised again, two more will be laid off. This will do nothing for employment in the town of Boulder.

Bill Stevens, Montana Food Distributors Association, stated that for the most part his membership goes by the federal guidelines, but he is opposing the bill because of the amendment that has been proposed at $250,000. A small grosser, would have to get at least double that and still have only four employees because most businesses are very high gross, low margin businesses.

Informational Testimony:

Leon Stalkup, Missoula, stated that he would like to testify again, but not as a proponent or opponent. He is the Chairman of the Human Resource Council in Missoula, which is one of ten community action agencies in Montana. The contract with the Federal and State Government to run programs for people below or at the poverty line. One of the programs is Two Way Summer Youth. It is a program that is targeted for children who are identified by the schools as being in trouble and whose families are below the poverty line. We've never had enough money to achieve the target population. The federal increase in the minimum wage will decrease the number of children that we can help with education, money, and counseling. He proposed that the committee introduce a bill where the state would pick up the additional money, so all community action agencies in Montana won't have to turn more kids away.

Questions From Committee Members:

REP. PAVLOVICH questioned both **REP. THOMAS** and **REP. HARRINGTON** what they thought about the amendment. **REP. HARRINGTON** said he had real serious problems with it. His feeling is that $4.25 should be the minimum wage. He understood the problem of the cap of $250,000 and didn't know how many businesses this would cover, but he would still have some very serious reservations. It's not only young people in minimum wage jobs. That's what you are doing is finding some way to limit the amount of money they can make.

REP. PAVLOVICH directed the same question to **REP. THOMAS. REP. THOMAS** said there were some good points about the amendment offered. The lady from Boulder made a good point. Possibly something in the middle could be set up, such as an area minimum wage pertaining to population in that area to take care of places like Boulder. Cities are different than smaller towns.

Closing by Sponsors:

REP. HARRINGTON stated that if HB 152 is not adopted the State of Montana will continue the training wage so long, there will be a $3.35 wage, $4.00 wage, $3.62 wage, and a $4.25 wage. If the other amendment is adopted there will be a fifth one. These people deserve to have a liveable wage. Many young people live by themselves and take care of themselves. Many of these people are from broken homes and single-parent families. He understands the problem of the lady in Boulder, but when you buy a hamburger that's paying for everything on down the line. People in those jobs don't get tips. There are a lot of fast-food places that don't just employ just high school kids.

REP. THOMAS suggested that the subcommittee do as much as possible so the state and federal levels are as synonymous as possible. On HB 152, sponsored by Rep. Harrington, the

elimination of the Wage Training Act will still leave a federal training act in effect, which is 90 days. Maybe the middle ground is to go to the federal level.

HEARING ON HB 60

Presentation and Opening Statement by Sponsor:

REP. DAN HARRINGTON, District 68, stated that HB 60 came about because of complaints from the Department of Labor. One way to get around the minimum wage is by charging a meal. There is approximately $.12 to $.25 per hour deduction. Many people have said they wanted this meal and if that could be worked out he doesn't have a problem with it, if the waitresses themselves decide that's what they want. One of the ways minimum wage earners are getting their wages cut is by the fact that they are not getting their full wage. Wages are deducted from the waitress, the waitress should be able to have something to say about it.

Proponents' Testimony:

Secky Fascione, Hotel and Restaurant Union, said that the meal credit came about through an inadvertent loophole in the legislature two years ago. Research determined that employers had quickly found a loophole and were taking advantage of that. There are two problems with the meal credit plan: 1. It defeats the purpose of the minimum wage. 2. It is a dignity and respect issue. Let's pay people the minimum wage we set by law for the work we hire them to do. Let them determine how to spend that money. Many people have said that if this bill should pass, it would run the risk of seeing the elimination of a free meal as a benefit for restaurant workers.

Don Judge, Executive Secretary, AFL-CIO, stated his support of HB 60. **EXHIBIT 6**

Opponents' Testimony:

Leon Stalkup, Montana Restaurant Association, stated the bill was not created by a loophole in the minimum wage bill two years ago. It has been in the fair labor practice act many years and has been included in Montana for many years. After doing a survey at the beginning of 1990, only three states don't allow meal credit. Montana says a "reasonable amount"; the Federal says the same thing. Many states have stated in the law what that amount can be. Some of the restaurants that use the meal credit pro-rate it on an hourly basis. Many states say that employees would have to sign an acknowledgement that they wish to participate. That would be the kind of bill we would support. The title of the bill says "An act to exclude a meal allowance from the minimum wage" but in the body of the bill it doesn't say that, it says from whatever wage. Even if an employee was paid $8.00 or $9.00 per hour you would not be able to deduct any meal credit. The

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE 1/17/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JERRY DRISCOLL	✓		
REP. MARK O'KEEFE	✓		
REP. GARY BECK	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. ROYAL JOHNSON		✓	
REP. THOMAS LEE		✓	
REP. BOB PAVLOVICH	✓		
REP. JIM SOUTHWORTH	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		
REP. TIM WHALEN	✓		
REP. TOM KILPATRICK, V.-CHAIR	✓		
REP. CAROLYN SQUIRES, CHAIR	✓		

CS05COM.man

EXHIBIT 3
DATE 1/17/91
HB 21 & 152

MONTANA STATE AFL-CIO
APRIL 29 1956

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

Testimony of Don Judge on HB 21 and HB 152, House Labor and Employment Relations Committee, Thursday, January 17, 3 p.m., Rm. 312-1

Madam Chair and members of the committee, I'm Don Judge, representing the Montana State AFL-CIO, and I'm here to support raising the state minimum wage to match the federal minimum wage.

We testified in support of a higher minimum wage in the 1989 legislative session, and we continue to support increasing the state's minimum wage.

With inflation heating up and the economy cooling off, it's getting harder and harder for people to make ends meet. In fact, at its current level, even the federal minimum wage isn't enough to lift a family out of poverty.

When the federal minimum wage raises to $4.25 per hour this summer, a full-time minimum wage job will bring in only $8,840 a year -- and that's before taxes and Social Security and so forth. The poverty level for a family of four in 1989 was $12,675, and it likely will pass $13,000 when the 1990 guidelines are issued.

Clearly, $4.25 an hour is not a living wage. It's a poverty wage. But, it's a start, and we urge you to raise the state minimum wage when the federal minimum goes up this summer.

We also urge you to repeal the so-called training wage, which Rep. Harrington's bill would do. The minimum wage is already a low wage that supposedly takes into account someone's lack of training or experience, or the lower skill level of the job. We don't need to punish workers by paying them even less simply because it's their first job.

The argument is often made that raising the minimum wage might cause someone to lose an employment opportunity somehow. That's just not borne out by the statistics.

From 1988, the last year before the minimum wage went up, to 1990, employment in the lowest-paid sectors of the Montana labor market went up sharply. In fact, those low-paying jobs are one of the biggest sources of new employment in the state's economy. That's a pretty sad commentary on the kinds of jobs being created.

Employment in the retail trade sector went up by about 4,400 people from 1988 through 1990, and over half of that was in the restaurants and bars -- one of the state's single largest employment sectors, and one of the lowest paying.

Clearly, minimum wage jobs are on the rise. There's no loss of employment due to an increasing minimum wage. However, there is a loss of economic vitality for many workers. The minimum wage is simply too low to support a family. We urge you to take a small step to improve things by approving HB 152.

Thank you.

PRINTED ON UNION MADE PAPER

EXHIBIT 4
DATE 1/17/91
HB 21 + 152

NFIB Montana

National Federation of
Independent Business

SUBMITTED STATEMENT OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)

Before: Labor Committee, Montana House of Representatives
Rep. Carolyn Squires, Chairman

Subject: HB-21 and HB-152, Minimum Wage Revisions of 1991

Date: January 17, 1991

Mr. Chairman and members of the committee, on behalf of the more than 6,000 members of the National Federation of Independent Business (NFIB) in Montana, I submit this testimony which outlines the views of our state's small employers regarding the proposed changes in the minimum wage.

A brief profile of the small business people who make up NFIB should help the committee understand our interest in the minimum wage issue. NFIB members in Montana employ over 48,000 Montanans in firms ranging from manufacturing to wholesale and

State Office
491 S. Park Ave.
Helena, MT 59601
(406) 443-3797

The Guardian of
Small Business

EXHIBIT 4
DATE 1/17/91
HB 21 + 152

NFIB Montana

National Federation of Independent Business

SUBMITTED STATEMENT OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)

Before: Labor Committee, Montana House of Representatives
Rep. Carolyn Squires, Chairman

Subject: HB-21 and HB-152, Minimum Wage Revisions of 1991

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Office
S. Park Ave.
Helena, MT 59601
(406) 443-3797

A brief profile of the small business people who make up NFIB should help the committee understand our interest in the minimum wage issue. NFIB members in Montana employ over 48,000 Montanans in firms ranging from manufacturing to wholesale and

The Guardian of Small Business

retail to professional industries and the service sector of our economy. The average NFIB member in Montana hires 3 to 5 people and does less than $350,000 in gross sales per year, thus qualifying for the state established minimum wage. Indeed, NFIB represents the small business people of our state...the main street businesses...the Mom and Pop shops, if you will.

NFIB is a very democratic organization. Just as your constituents cast ballots to elect you to public office, our members cast ballots to establish our policy positions. I am bound by these mandates from our members. In a recent poll of our members, the question of increasing the minimum wage was asked and our members voted 71% against increasing the minimum wage over the 1989 law, with 23% voting in favor.

Consequently, NFIB/Montana must go on record as opposing any increase in the present minimum wage laws. There is a simple reason for this strong vote of opposition...small firms are labor intensive. People are our most valuable, and our most expensive, resource. Therefore anything which raises the cost of that employee threatens the continued viability of any small firm.

Small business is both an economic job creation engine and a true provider of equal opportunity. Small firms in Montana proportionately employ old people, youths, women and minorities in larger percentages than our competitors in big business. According to 1986 employment data compiled by the Bureau of Labor Statistics, teenagers and young adults make up over 60% of Montana's minimum wage earners.

Ex. 7
1/17/91
HB 21 & 152

*Teenagers (16-19) represent almost 36% of all minimum wage earners.

*Young Adults (20-24) represent an additional 23% of minimum wage earners.

Two other additional facts about the minimum wage earners should be of interest to the committee:

*Almost half of all minimum wage earners are single and live in homes with a relative as head of household.

*65% of all minimum wage earners are employed part-time (34 hours or less per week).

What these statistics illustrate is that the minimum wage is primarily a wage for youths, new entrants into the work force and part-time employees looking to supplement household incomes. The typical minimum wage earner is not a single head of a household with two or three or four dependents. In fact, according to the same BLS figures, that profile fits only about 10% of all minimum wage earners.

Because we are the employer of the young, the new and the part-time, we are asking that you keep our option open for paying the reduced state minimum wage of $4.00 per hour. In 1991, we will experience a 5.8% increase from $3.80 to $4.00. To ask mandate a 12% increase to $4.25 is, we feel, excessive to our small employers.

Interestingly, NFIB has always supported letting the open market set wages. A minimum wage can be an emergency floor, if you will, but let supply and demand set the going wages in a community and state. In surveying members for this hearing

today, I found in reality that the market is setting going wages in most of Montana's urban areas. In checking with three major employment offices in Billings, Bozeman and Helena, I found that workers were beginning at a minimum of $4.00 per hour right today, and most entry jobs or "lower paying" jobs were paying $4.50 per hour and up. As one employment office owner said: "You can't get people at minimum wage today." I also found that when the federal minimum moves to $4.25 per hour, most urban Montana employers will be paying that amount to compete and to meet the demands of the market.

But NFIB has literally thousands of small business members in the smaller towns and cities of Montana and the rural areas of our state. Here the volume of business is less...the labor market is different...and the profit margins and opportunities to absorb another 12% increase in wages in 1991 (or to pass it through to the consumer) are very limited. These folks need that option to pay the lower state rate that I was talking about earlier. Look around your own rural communities and tell me that the little shops and stores aren't the only opportunity for your high school kids and young adults to get a job and earn some money. And then tell me that another 6% increase in wages won't make a difference in how many jobs are available in the Deer Lodges...the Hamiltons...the Circles...and the Maltas of Montana.

And, now, to the point about the training wage.

Ex. 4
1/17/91
HB 21 ; 152

Two-thirds of all Montanans get their start in a small business. Many of the youths hired by small employers come to the job with few if any skills. The small business person takes these young people on and provides them with skills they need to develop into active and productive members of the Montana work force. Whether they stay with that particular small employer or move on to bigger and better jobs, in many cases these small business people of NFIB have provided these youths and young adults with both their first job and their first training.

Small business needs that <u>incentive</u> to be able to reward serious and eager young folks who have proven themselves as worthy employees...have demonstrated knowledge of good work habits...and have moved beyond being a mere liability to being a trusted benefit to that small business. The fear that employers would "take advantage of the training wage period to underpay their employees" has simply not happened. What has happened is that in the urban areas where the market dictates no training wage hires, the training wage period has not been used. However, in the smaller communities of Montana, many small main street businesses have used the training wage concept to work young folks into their work force...test them out for quality...and then be able to reward them substantially with a nice raise. This is being done without serious hindrance to minimal cashflow opportunities of these smaller employers.

In other words, the market is working in Montana as it pertains to the minimum wage laws presently on the books, and businesses are responding accordingly. Let's let the market continue to work and not micromanage this issue.

NFIB/Montana thanks you for this opportunity to present the views of our state's small and independent employers on what they determine is an issue of major importance. And we urge you to give a "DO NOT PASS" to both HB-21 and HB-152. These efforts, as well-meaning as they may be intended, are not serving the best interests of the minimum wage population in Montana's small communities. Nor are you serving the best interests of the truly small businesses in your rural towns and cities of Montana, which are the largest employers of your teenagers, your young adults and your part-time work force.

-END-

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Labor & Employment Relations COMMITTEE

BILL NO. 152 SPONSOR Dan Harrington DATE 1/17/91

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY.

WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU WANT TO SUBMIT WRITTEN TESTIMONY.

PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	SUPPORT	OPPOSE
Riley Johnson	NFIB	HB 152		X
JAY BEARDON	SEIF	152	✓	
Laurie Shadoan	Bozeman Chamber	HB152	✓	
Becky Fasciano	Hotel + Rest. Union	152	✓	
Leon Stalys	MT Restaurant Assoc	152	✓	w/amend
DAVE SIMMONS	Leslies Hallmark	152		✓
Kathy Kelsch	DQ			✓
Stuart Doggett	MT Taxpayers	152	✓	
Bob Heiser	UFCW	152	—	
Don Judge	MT STATE AFL-CIO	HB 152	✓	
WE Stevens	MT Food Dist Assn	152		✓
Phil Campbell	MEA		✓	
E FENDERSON	MT STATE RLG TRADES	152	✓	
Barbara Hagerman	AFSCME	152	✓	
Robin G. Ford	AFSCME	152	✓	

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIR CAROLYN SQUIRES**, on January 29, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Carolyn Squires, Chair (D)
Tom Kilpatrick, Vice-Chairman (D)
Gary Beck (D)
Steve Benedict (R)
Vicki Cocchiarella (D)
Ed Dolezal (D)
Jerry Driscoll (D)
Russell Fagg (R)
H.S. "Sonny" Hanson (R)
David Hoffman (R)
Royal Johnson (R)
Thomas Lee (R)
Mark O'Keefe (D)
Bob Pavlovich (D)
Jim Southworth (D)
Dave Wanzenried (D)
Tim Whalen (D)

Members Absent: Fred Thomas (R)

Staff Present: Eddye McClure, Legislative Council
Jennifer Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 232

Presentation and Opening Statement by Sponsor:

ROBERT CLARK, House District 31, Ryegate, presented written testimony for HB 232. **EXHIBIT 1**

Proponents' Testimony:

Tom Schneider, Montana Public Employees Association, stated his support for HB 232. **EXHIBIT 2**

Murphy said the premium is paid on a straight time rate. **REP. DRISCOLL** said since the payroll records don't show how many hours worked, how can you tell when it's over 40 hours. **Mr. Murphy** said he didn't know.

Closing by Sponsor:

REP. DRISCOLL stated that the insurance industry said they have been using payroll since the early part of this century. They won't change. The prevailing rate for a laborer is $12.60 per hour, the rate is $11.75, and that equals $1.48 per hour. $240,000 worth of computer time wasn't needed to compute that. Payrolls can be verified now. You do not pay your premium on overtime. For example, if a person makes $12 per hour and works 50 hours the computation is 50 times $12 times the rate, even though the minimum wage and overtime law says time and a half is to be paid after 40 hours. If employers don't know how many hours are worked, how do they know when to take off the half time. The rates of NCCI are highly exaggerated in almost every class code. There are 79 class codes for construction only. The State Fund said that it needs $200,000 to administer the change; the unions have an auditor that audited over 5 million hours last year for seven construction unions with about 100 contractors. He has a computer and office staff and his total bill was less than $60,000. Maybe the State Fund should hire him.

EXECUTIVE ACTION ON HB 204

Motion/Vote: **REP. PAVLOVICH MOVED HB 204 DO PASS.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 21

Motion/Vote: **REP. O'KEEFE MOVED HB 21 BE TABLED.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 152

Motion: REP. O'KEEFE MOVED HB 152 DO PASS.

Discussion: **REP. O'KEEFE** stated that the subcommittee proposed an amendment to change the cap for businesses with an annual gross income of $250,000 to $110,000. Rep. Dolezal got statistics from Dunn's Marketing Data which identified gross sales for all the retailers in the state. The subcommittee looked at the percentages of businesses that would be fair to exempt from minimum wage. About 1/3 of the businesses would be exempt from the minimum wage requirement. That would cover 3,013 retailers who have annual sales of less than $110,000.

Motion: REP. O'KEEFE moved to amend HB 152.

REP. HANSON asked if an organization normally runs about $100,000 per year and has a good year with annual sales of $120,000, would

they have to back pay. How does that section read? **Ms. McClure** stated that it would be the same if the cap was set at $250,000. The Department of Labor would figure how to deal with it. She stated that she wasn't sure what the exact procedure would be.

Vote: Amend HB 152. Motion carried unanimously.

Motion: **REP. O'KEEFE made a substitute motion that HB 152 DO PASS AS AMENDED.** Motion carried 17 to 1 with Rep. Lee voting no.

EXECUTIVE ACTION ON HB 232

Announcement: **CHAIR SQUIRES** stated that Tom Schneider said **REP. COCCHIARELLA** could answer any questions for him.

Motion: **REP. BENEDICT MOVED HB 232 DO PASS.**

Discussion:

REP. WHALEN stated that on line 21 it provides for 10 days after the decision to appeal it to District Court; that is not enough time and should be increased to 30 days. He asked **REP. COCCHIARELLA** if she had any objection. **REP. COCCHIARELLA** said she wasn't sure and would have to ask Rep. Clark, sponsor of HB 232. **CHAIR SQUIRES** stated that **REP. CLARK** could make the amendment on the floor.

Motion: **REP. WHALEN** moved to amend HB 232 to include 30 days on line 21.

REP. HANSON stated to **REP. WHALEN** that it wasn't in the title of the bill. The direction of this bill deals with accepting the grievance procedures within the agreement. The Court Appeals is not in the discussion.

REP. KILPATRICK stated that Tom Schneider and Rep. Clark went over this, and the committee is not justified to change it to 30 days.

REP. WHALEN stated that 10 days wasn't enough time to get a lawyer to evaluate the problem or do the necessary paperwork.

REP. COCCHIARELLA stated to **REP. WHALEN** that there is a process in place where a person ends up in District Court if he chooses to. That is the appeal process that is in place. This allows appeal through the grievance procedure which is not the right of the patrolmen now. The first step is not District Court. There is already a process that a patrolman goes through with the Attorney General's office and then appeal to the District Court. This bill is to allow highway patrolmen to pursue another avenue. There isn't a problem with the 10 days.

Ms. McClure said in the existing law the appeal must be made within ten days. That is the process now. **REP. WHALEN** stated

HOUSE STANDING COMMITTEE REPORT

January 30, 1991

Mr. Speaker: We, the committee on Labor report that House Bill 152 (first reading copy -- white) do pass as amended.

Signed: _____
Carolyn Squires, Chairman

And, that such amendments read:

1. Title, line 6.
Following: "LAW;"
Insert: "TO PROVIDE AN EXCEPTION FOR CERTAIN BUSINESSES;"

2. Title, line 8.
Following: "AN"
Insert: "IMMEDIATE"

3. Page 1, line 12.
Following: "rates"
Insert: "-- exception"
Following: "."
Insert: "(1)"

4. Page 1, line 14.
Following: "that"
Insert: ", except as provided in subsection (2),"

5. Page 1, line 17.
Following: line 16
Insert: "(2) The minimum wage rate for a business whose annual gross sales are $110,000 or less is $4 an hour."

6. Page 1, line 20.
Following: "effective"
Strike: "July 1, 1991"
Insert: "on passage and approval"

CHAIRMAN--RICHARD MANNING
NORMAL SCHEDULE==> SITE: RM 413/415 DAYS: T,TH,S TIME: 3:00 P.M.

SECRETARY-LINDA CASEY

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0018	1/14	1/22		CONCUR		1/22
DRISCOLL, JERRY			REVISE QUALIFICATION FOR JOURNEYMAN PLUMBER LICENSE			
HB0028	2/01	2/12		ADVERSE RPT ADOPT		4/03
HANSON, SONNY			REQUIRE PUBLIC CONTRACTS & BID SPECIFICATIONS TO STATE PREVAILING WAGE RATE			
HB0060	2/04	2/12		CONCUR		3/13
HARRINGTON, DAN			EXCLUDE MEAL ALLOWANCE FROM MINIMUM WAGE PAID TO MONTANA EMPLOYEES			
HB0068	2/01	2/07		CONCUR		3/28
WHALEN, TIM			REVISE ELIGIBILITY AND DISQUALIFICATION FOR UNEMPLOYMENT INSURANCE BENEFITS			
HB0141	2/26	3/19		ADVERSE RPT ADOPT		4/02
HARRINGTON, DAN			PROVIDE UNEMPLOYMENT INSURANCE BENEFITS NONPROFESSIONAL SCHOOL EMPLOYEES			
HB0152	2/05	2/14		CONCUR AS AMENDED		4/01
HARRINGTON, DAN			REVISE STATE MINIMUM WAGE LAW TO CONFORM WITH FEDERAL LAW			
HB0187	2/12	3/14		CONCUR AS AMENDED		4/02
DRISCOLL, JERRY			REVISE WORKERS' COMPENSATION COMPUTATION FOR CONSTRUCTION INDUSTRY			
HB0204	2/05	2/14		CONCUR AS AMENDED		4/03
RICE, SHEILA			REVISE OVERTIME COMPENSATION PERIODS IN CONSTRUCTION INDUSTRY			
HB0232	2/12	3/07		CONCUR		3/13
CLARK, ROBERT			HIGHWAY PATROL DISCIPLINARY APPEAL THROUGH COLLECTIVE BARGAINING			
HB0251	3/20	4/02		CONCUR AS AMENDED		4/03
DRISCOLL, JERRY			EXTENDING LIFE OF WORKERS' COMPENSATION JOINT SELECT COMMITTEE			
HB0256	2/06	2/12		CONCUR		3/06
DRISCOLL, JERRY			REVISE CRITERIA USED TO DETERMINE ELIGIBILITY AND PAYMENT OF UI BENEFITS			

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Richard Manning, on February 14, 1991, at 3:20 p.m.

ROLL CALL

Members Present:
Richard Manning, Chairman (D)
Thomas Towe, Vice Chairman (D)
Gary Aklestad (R)
Chet Blaylock (D)
Gerry Devlin (R)
Thomas Keating (R)
J.D. Lynch (D)
Dennis Nathe (R)
Bob Pipinich (D)

Members Excused: NONE.

Staff Present: Tom Gomez (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: NONE.

HEARING ON SENATE BILL 267

Presentation and Opening Statement by Sponsor:

Senator Towe told the Committee Senate Bill 267 deals with "goons". He explained very frequently before and during a large an employer will contact a professional security agencies such as Baker and Associates. The security agency provides security to the employer during the strike with elaborate electronic, high technology equipment that allows for eavesdropping and surveillance. He explained the agencies set up before the strike. They make establish a excellent relationship with local law enforcement. They keep track of strikers by following them. Senator Towe commented while the agency is hired for security, "their principle purpose is disruption" by causing violence and instigating incidents that can be blamed on the strikers to turn public opinion against the union. He cited an example. Baker and Associates had just come off the Hormel strike and were hired by Decker. Their personnel were put in caravans with caravans of miners crossing the picket line, the equipment was set to watch

HEARING ON HOUSE BILL 152

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington told the Committee House Bill 152 dealt with the minimum wage in Montana. In 1989 a minimum wage was passed which set two different wage rates. House Bill 152 proposes a sub-minimum wage set for businesses whose annual gross sales are $110,000. He explained upon passage minimum wage would be $4.25 with the sub-minimum wage at $4.00. He expressed his reservations about the wage because of concerns for the people trying to "get by" on it. He explained a great many people can raise a family on this wage, but he does not understand how that is possible. He feels House Bill 152 is a compromise in the right direction.

Proponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry spoke in support of House Bill 152. He told the Committee it is the hope of the department all provisions of the legislation would comply with federal provisions.

James Tutwiler of the Montana Chamber of Commerce spoke in support of House Bill 152. He explained previously the minimum wage was proposed to become one of the highest minimum wages paid in the United States. He expressed early concern, not so much for chamber members because not many of the members pay minimum wage, but the chamber attempts to represent all business in Montana. They looked at sales volume by industry in retail association and restaurant association and concluded the bill as amended would be supported.

Charles Brooks of the Montana Retail Association spoke in support of House Bill 152. He told the Committee over 3000 businesses in the retail, restaurant trade with sales volume of $110,000 or less. He commented the federal minimum wage of $4.25 will go into effect in April. He suggested House Bill 152 coincide with the federal increase. He told the Committee through research done on minimum wage, nationally 70% of the recipients of minimum wage are from families with income 200% above the poverty level.

Laurie Shodoan of the Bozeman Chamber of Commerce spoke in support of House Bill 152. She recommended the effective date be April 1 for consistency between federal and state. She told the Committee the lower tier for smaller businesses is appreciated.

Bob Heiser of the United Food and Commercial Workers International Union spoke in support of House Bill 152. He told the Committee he is not in favor of the two tier portion. He explained the cost of living for the employees in businesses below $110,000 is the same as for an employee in a business above the limit.

Stuart Doggett representing the Montana Innkeepers Association spoke in support of House Bill 15.

Christian MacKay of the Montana State AFL-CIO read from prepared testimony in support of House Bill 152. (Exhibit #4)

Opponents' Testimony:

Riley Johnson, State Director of the National Federation of Independent Businesses read from prepared testimony in opposition to House Bill 152. (Exhibit #5)

Kathy Kirsch, owner and operator of the Boulder Dairy Queen told the Committee opposes House Bill 152.

A letter from Mary Ann Garpestad is entered into the record. (Exhibit #6)

Questions From Committee Members:

Senator Devlin asked Kathy Kirsch if her business was over the $110,000 limit. Ms. Kirsch stated that is correct.

Senator Devlin asked Ms. Kirsch how many employees she had. Ms. Kirsch told the Committee there were 10 parttime employees. Senator Devlin asked if the employees were young people. She explained one employee works for the Montana Developmental Center to supplement her income; the other nine are high school students.

Senator Towe asked Ms. Kirsch if there were anything she wished to tell the Committee regarding House Bill 152. Ms. Kirsch stated she would not go out of business if the minimum wage was raised. She has employees which are second wage earners. She had to cut two jobs after the last increase. She explained the economy of Boulder does not allow her to hire all individuals needing a job in Boulder. There are more people in Boulder who need jobs than she has. She told the Committee she will be forced to cut two or three more jobs if the minimum is raised to $4.25. She commented she will not hire high school students. She told the Committee she calculated her cost is $5.15 an hour between wages, unemployment, workers' compensation, etc. She explained the high school students have never held other jobs and she is training them to work elsewhere.

Senator Towe asked Representative Harrington about the adoption of the federal minimum wage which goes to $4.25 an hour after March 31. He explained the federal has two provisions, one is an allowance for tip credit and a $3.61 maximum for a training period. He asked if Representative Harrington's intent was to incorporate that. Representative Harrington explained the bill definitely does not put tip credit in. He told the Committee it will $4.25 and $4.00 for any $110,000 below.

Senator Towe pointed out by reference to the federal the bill may be doing exactly what is not intended. Representative Harrington commented if there is a problem he suggests the Committee work it out.

Senator Towe asked Mr. Micone to comment. Mr. Micone introduced Elaine Eidum, compliance officer with the Investigations Unit of the Employment and Relations Division of the Department of Labor and Industry to answer the question. Senator Towe explained the reference is to Section 206 of the Fair Labor Standards Act which refers to $4.25 an hour for wages. Wages in another section is defined to allow tip credit. Ms. Eidum told the Committee under the Fair Labor Standards Act there is a tip credit provision. Senator Towe asked Ms. Eidum if it should be clarified in Montana statute. Tom Gomez clarified the issue. He explained the definition of wage for Montana law purposes excludes tips.

Closing by Sponsor:

Representative Harrington commented about the third and fourth jobs in families. He agreed that is the case but the jobs are probably held by the same person. Many of the individuals on minimum wage jobs must work two and three jobs in order to make a living. He told the Committee he had serious reservations about the sub-minimum wage.

HEARING ON HOUSE BILL 204

Presentation and Opening Statement by Sponsor:

Representative Sheila Rice told the Committee the Montana Constitution, Article 7 says, "The maximum period of eight hours a day is a regular days work in all industries and employment except agriculture and stock raising. The Legislature may change this maximum period to promote the general welfare." In Section 39-3-405 is a 40-hour work week, followed by a list of exemptions. In Section 39-4-101 is a list of 8-hour work week definitions including a 10-hour work week county bridge and road crews. She explained House Bill 204 proposes identifying an 8-hour five day work week or 10-hour four day work week for construction workers only. An amendment will be proposed to change the definition of construction. Representative Rice told the Committee many existing construction contracts deal with eight and ten hour work days. She explained some contractors pay overtime after eight and ten hours and currently are "playing on an unlevel playing field" with contractors choosing to work their employers longer without overtime paid until 40 hours. The safety of the worker involved is important also.

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 2/14/91

____ LEGISLATIVE SESSION ____

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P 3:25		
SENATOR LYNCH	P		
SENATOR MANNING	P		
SENATOR NATHE	P		
SENATOR PIPINICH	P		temp. E
SENATOR TOWE	P		

Each day attach to minutes.

MONTANA STATE AFL-CIO
APRIL 29 1956

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

Testimony of Don Judge House Bill 152 before the Senate Labor and Employment Relations Committee, Thursday, February 14, 1991

Mr. Chairman and members of the committee, I'm Don Judge, representing the Montana State AFL-CIO, and I'm here to support raising the state minimum wage to match the federal minimum wage.

We testified in support of a higher minimum wage in the 1989 legislative session, and we continue to support increasing the state's minimum wage.

With inflation heating up and the economy cooling off, it's getting harder and harder for people to make ends meet. In fact, at its current level, even the federal minimum wage isn't enough to lift a family out of poverty.

When the federal minimum wage raises to $4.25 per hour this summer, a full-time minimum wage job will bring in only $8,840 a year -- and that's before taxes and Social Security and so forth. The poverty level for a family of four in 1989 was $12,675, and it likely will pass $13,000 when the 1990 guidelines are issued.

Clearly, $4.25 an hour is not a living wage. It's a poverty wage. But, it's a start, and we urge you to raise the state minimum wage when the federal minimum goes up this summer.

The argument is often made that raising the minimum wage might cause someone to lose an employment opportunity somehow. That's just not borne out by the statistics.

From 1988, the last year before the minimum wage went up, to 1990, employment in the lowest-paid sectors of the Montana labor market went up sharply. In fact, those low-paying jobs are one of the biggest sources of new employment in the state's economy. That's a pretty sad commentary on the kinds of jobs being created.

Employment in the retail trade sector went up by about 4,400 people from 1988 through 1990, and over half of that was in the restaurants and bars -- one of the state's single largest employment sectors, and one of the lowest paying.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4
DATE 2/14/91
BILL NO. HB 152

PRINTED ON UNION MADE PAPER

An amendment to this bill was made in the House to allow those businesses whose gross annual sales are $110,000 or less to pay a minimum wage of $4.00 an hour. We don't necessarily agree with this amendment as it may exempt many of Montana's small businesses, and, therefore, their workers from receiving a livable wage. But getting an increase for some is better than nothing for all.

Clearly, minimum wage jobs are on the rise. There's no loss of employment due to an increasing minimum wage. However, there is a loss of economic vitality for many workers. The minimum wage is simply too low to support a family. We urge you to take a small step to improve things by approving HB 152.

Thank you.

NFIB Montana

National Federation of
Independent Business

SUBMITTED STATEMENT OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before: Labor Committee, Montana Senate
Sen. Richard Manning, Chairman

Subject: HB-152, Minimum Wage Revisions of 1991

Date: February 14, 1991

Presented by: J. Riley Johnson, State Director NFIB/Montana

Mr. Chairman and members of the committee, on behalf of the more than 6,000 members of the National Federation of Independent Business (NFIB) in Montana, I submit this statement which outlines the views of our state's small employers regarding the proposed changes in the minimum wage.

A brief profile of NFIB/Montana members might help you understand why this issue of minimum wage is so important to our members. The average NFIB/Montana member employes 3 to 5 people and has a gross sales volume of less than $350,000 annually. In

State Office
21 S. Park Ave.
Helena, MT 59601
(406) 443-3797

The Guardian of
Small Business

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 5
DATE 2/14/91
BILL NO. HB152

NFIB is a very democratic organization, also. Just as your constituents vote for you to gain public office, our members vote on NFIB's policies and positions. As state director of governmental affairs for NFIB/Montana, I must support those "balloted" positions. And, as to minimum wage, NFIB/Montana members have voted loud and clear...71% of our members responding to our annual ballots favor "NO CHANGE" in the minimum wage bill passed in 1989. Only 23% voted to increase the minimum wage.

Consequently, NFIB/Montana must go on record as opposing HB-152 in any form.

Montana's small businesses proportionately employ old people, youths, women and minorities in larger percentages than our competitors in larger firms. According to 1986 employment data compiled by the Bureau of Labor Statistics (BLS), teenagers and young adults make up over 60% of Montana's minimum wage earners.

*Teenagers (16-19) represent almost 36% of all minimum wge earners.

*Young adults (20-24) represent an additional 23% of minimum wage earners.

Two other facts about the minimum wge earners should be of interest to this committee.

*Almost half of all minimum wge earners are single and live in homes with a relative as head of household.

* 65% of all minimum wage earners are employed part-time (34 hours or less per week).

What these statistics illustrate is that the minimum wge is primarily a wage for youths, new entrants into the work force and part-time employees looking to supplement household incomes. The typical minimum wge earner is NOT a single head of a household with two or three or four dependents. In fact, according to the same BLS figures, that profile fits only about 10% of all minimum wage earners.

Because we are the employer of the young, the new and the part-time, we are asking that you keep our option open for paying the reduced state minimum wage of $4.00 per hour. In 1991, we will experience a 5.8% increase from $3.80 to $4.00 per hour. To mandate a 12% increase to $4.25 is, we feel, excessive to our small employers.

Interestingly, NFIB has always supported letting the open market set wages. A minimum wage can be an emergency floor, if you will, but let supply and demand set the going wages in a community and state. In surveying members for this hearing today, I found in reality that the market IS setting going wages in most of Montana's urban areas. In checking with three major employment offices in Billings, Bozeman and Helena, I found that workers were beginning at a minimum of $4.25 per hour right today, and most entry jobs or "lower paying" jobs were paying $4.50 per hour and up. As one employment office owner said: "You can't get people at minimum wge today." I also found that when the federal minimum moves to $4.25 per hour, most urban Montana employers will be paying that amount to compete and to meet the demands of the marketplace.

But NFIB has literally thousands of small business members in the smaller towns and cities of Montana and the rural areas of our state. Here the volume of business is less...the labor market is different...and the profit margins and opportunities to absorb another 12% increase in wages in 1991 (or to pass it through to the consumer) are very limited. These folks need that OPTION to pay the lower state rate that I was talking about earlier. Look around your own rural communities and tell me that the little shops and stores aren't the only opportunity for your high school kids and young adults to get a job and earn some money. And then tell me that another 6% increase in wages won't make a difference in how many jobs are available in the Deer Lodges...the Hamiltons...the Circles...and the Maltas of Montana.

One way to insure this OPTION for our small business employers in Montana would be to amend the $110,000 exemption in HB-152 up to match the federal exemption of $500,000. If matching the federal minimum wage is so fair and righteous, then why would it not be fair and righteous to also match the federal exemption limit? The only thing you stand to lose are jobs for kids, young adults and part-time wage earners in Montana's rural cities and towns.

And, one more word on the abolishment of the training wage by HB-152.

Two-thirds of all Montanans get their start in a small business. Many of the youths hired by small employers come to the job with few if any skills. The small business person takes

these young people and provides them with skills they need to develop into active and productive members of the Montana work force.

Small business needs that incentive to be able to reward serious and eager young folks who have proven themselves as worthy employees...have demonstrated knowledge of good work habits...and have moved beyond being a mere liability to being a trusted benefit to that small business. The fear in 1989 that employers would "take advantage of the training wage period to underpay their employees" has simply not happened. What has happened is that in the urban areas where the market dictates no training wage hires, the training wage period has not been used. However, in the smaller communities of Montana, many small main street businesses have used the training wage concept to work young folks into their work force...test them out for quality...and then be able to reward them substantially with a nice raise in 90 or 180 days. And this is being done without serious hindrance to minimal cash flow opportunities of these small employers.

In other words, the market is working in Montana. Let's let the market continue to work and not micromanage this issue of minimum wage.

NFIB/Montana thanks you for this opportunity to present the views of our state's small and independent employers. And we request that, if you can not see fit to reject HB-152 entirely, we ask that you amend HB-152 to raise the exemption amount to $500,000 and to also amend back the training wage program. These

efforts, as well-meaning as they may be intended, are not serving the best interests of the minimum wage population in Montana's small communities. Nor are you serving the best interests of the truly small businesses in your rural towns and cities of Montana, which are the largest employers of your teenagers, your young adults and your part-time work force.

-END-

Feburary 5th, 1991

The Honorable Cecil Weeding
Senate Chamber
State Capitol
Helena, Montana, 59620

Dear Senator Weeding:

RE: HOUSE BILL 152

I would like to have the Bill amended in the following ways:

1. STUDENTS TO BE EXEMPT FORM THE MINIMUM WAGE.

2. TRAINING PERIOD FOR FULL TIME AND PART TIME EMPLOYEES.

3. ANNUAL GROSS SALES AT $500,000 INSTEAD OF $110,000.

REASONS:

1. Students can only work certain hours due to school hours and school activities, and not the hours the business demands like full or part-time employees can. Students generally stay with you only 2-3 months to a year in most cases.

2. Until employees are trained to be self-productive they are an expense to the business, which normally is 3 month to a year depending upon the business.

3. Gross income is misleading. Say a business nets 6% of gross of 110,000, that leaves $6,600 net. A business netting 15% of gross of $110,000, that leaves $16,500 net income. The bottom line is the net income as thats what you live on.

I would really appreciate you giving this serious consideration, because with the economy the way it is in small rural Montana, the money just isn't there and most of us are just barely getting by now.

I will be following this with a letter explaining more reasons why I feel this issue is very important to rural Montana.

Respectively yours,
Mary Ann Dargestad
Circle, Montana

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 6
DATE 2/14/91
BILL NO. HB 152

SENATE STANDING COMMITTEE REPORT

April 1, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 152 (third reading copy -- blue), respectfully report that House Bill No. 152 be amended and as so amended be concurred in:

1. Page 1, line 19.
Following: "206"
Insert: "(a)(1)"

2. Page 1, line 20.
Following: "~~hour~~"
Insert: ", excluding the value of tips received by the employee and the special provisions for a training wage"

Signed: Thomas E. Towe
Thomas E. Towe, Vice-Chairman

LB 4/1/91
Amd. Coord.

Sec. of Senate

HB 152

SENATE

HOUSE BILL NO. 152

INTRODUCED BY HARRINGTON, LYNCH, D. BROWN, DRISCOLL, REAM, BACHINI, GALVIN, PAVLOVICH, DAILY, KILPATRICK, DAVIS, SCHYE, WYATT, QUILICI, MENAHAN, MCCARTHY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE STATE MINIMUM WAGE LAW TO REQUIRE THAT THE STATE MINIMUM WAGE BE SET IN ACCORDANCE WITH FEDERAL LAW; TO PROVIDE AN EXCEPTION FOR CERTAIN BUSINESSES; TO REPEAL THE NEW HIRE WAGE STATUTE; AMENDING SECTION 39-3-409, MCA; REPEALING SECTION 39-3-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-409, MCA, is amended to read:

"**39-3-409. Adoption of minimum wage rates -- EXCEPTION.** (1) The commissioner shall adopt rules to establish a minimum wage that, EXCEPT AS PROVIDED IN SUBSECTION (2), must be the same minimum hourly wage rate as provided under the federal Fair Labor Standards Act (29 U.S.C. 206(A)(1)~~, but not to exceed $4 an hour~~, EXCLUDING THE VALUE OF TIPS RECEIVED BY THE EMPLOYEE AND THE SPECIAL PROVISIONS FOR A TRAINING WAGE.

(2) THE MINIMUM WAGE RATE FOR A BUSINESS WHOSE ANNUAL GROSS SALES ARE $110,000 OR LESS IS $4 AN HOUR."

NEW SECTION. **Section 2.** Repealer. Section 39-3-410, MCA, is repealed.

NEW SECTION. **Section 3.** Effective date. [This act] is effective ~~July 1, 1991~~ ON PASSAGE AND APPROVAL.

-End-

GOVERNOR'S AMENDMENTS TO
HOUSE BILL 152
(REFERENCE COPY, AS AMENDED)
April 20, 1991

1. Page 1, line 24.
Strike: "$110,000"
Insert: "$250,000"

AN ACT TO REVISE THE STATE MINIMUM WAGE LAW TO REQUIRE THAT THE STATE MINIMUM WAGE BE SET IN ACCORDANCE WITH FEDERAL LAW; TO PROVIDE AN EXCEPTION FOR CERTAIN BUSINESSES; TO REPEAL THE NEW HIRE WAGE STATUTE; AMENDING SECTION 39-3-409, MCA; REPEALING SECTION 39-3-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-409, MCA, is amended to read:

"**39-3-409. Adoption of minimum wage rates -- exception.** (1) The commissioner shall adopt rules to establish a minimum wage that, except as provided in subsection (2), must be the same minimum hourly wage rate as provided under the federal Fair Labor Standards Act (29 U.S.C. 206(a)(1)~~,-but-not-to-exceed-$4-an-hour~~, excluding the value of tips received by the employee and the special provisions for a training wage.

(2) The minimum wage rate for a business whose annual gross sales are $110,000 or less is $4 an hour."

Section 2. **Repealer.** Section 39-3-410, MCA, is repealed.

Section 3. **Effective date.** [This act] is effective on passage and approval.